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March 1, 2018

BY ECF

The Honorable Jesse M. Furman
United States District Court
Southern District of New York
Thurgood Marshall United States Courthouse
40 Centre Street, Room 2202
New York, NY 10007

Re: *U.S. Bank National Association v. Windstream Services, LLC v. Aurelius
Capital Master, Ltd.*, 17-cv-7857 (JMF) (S.D.N.Y.)

Dear Judge Furman:

Pursuant to the December 14, 2017, Civil Case Management Plan and Scheduling Order (“Scheduling Order”) [Dkt. 90], Counterclaim-Defendant and Counterclaim-Plaintiff Aurelius Capital Master, Ltd. (“Aurelius”) submits this joint status letter on behalf of all parties.

(1) A statement of all existing deadlines, due dates, and/or cut-off dates

Pursuant to the Scheduling Order, the current deadline for fact discovery is March 30, 2018, and the current deadline for expert discovery is April 13, 2018. The current “trial ready” date is May 28, 2018.

The parties jointly request that each of those deadlines be extended by three (3) weeks, as set forth below. Further, the parties jointly request that the Court set a trial date for this matter at the Court’s earliest availability consistent with the proposed extended pretrial schedule.

(2) A brief description of any outstanding motions

On February 16, 2018, Aurelius filed a discovery motion relating to certain confidentiality designations made by Windstream Services, LLC (“Services”). [Dkt. 115.] Your Honor referred that discovery motion to Chief Magistrate Judge Gorenstein on February 23, 2018. [Dkt. 118.] Chief Magistrate Judge Gorenstein has not yet ruled on this discovery motion.

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(3) A brief description of the status of discovery and of any additional discovery that needs to be completed

Windstream and Aurelius have been making rolling productions in response to one another's document requests. Windstream made its first production to Aurelius on February 16, 2018, and to date has produced 401 documents. Aurelius made its first production to Windstream on February 12, 2018, and to date has produced 138 documents. There are no outstanding discovery requests to U.S. Bank.

Aurelius served third-party subpoenas on three entities: (i) Citigroup Global Markets, Inc. ("Citi"), which acted as the Dealer Manager for the exchange offers at issue in this litigation; (ii) Willkie Farr & Gallagher LLP ("Willkie"), which represented a group of bondholders in connection with the exchange offers; and (iii) Uniti Group, Inc. ("Uniti"), the REIT entity formed in connection with the underlying transaction giving rise to Aurelius's September 2017 notice of default.

Aurelius has not yet received a production from Citi; its subpoena was served nearly two months ago. It has received 193 documents from Willkie. Uniti's response to Aurelius's subpoena is due today (March 1, 2018).

Aurelius expects that additional third-party discovery will be necessary, but cannot meaningfully evaluate that question (and any implications that delayed production may have for the balance of the schedule) until it receives additional productions from Windstream and initial productions from Citi and Uniti.

Owing to these and other factors, the parties jointly request a **three-week extension** of the fact- and expert-discovery deadlines. They respectfully propose that Paragraphs 8(b) and 8(d) of the Scheduling Order be modified as follows:

The deadline for fact discovery is extended to **April 20, 2018**, and the deadline for expert discovery is extended to **May 4, 2018**.

Expert reports propounded by the party with the burden of proof will be served on or before **March 30, 2018**, and expert reports propounded by the party without the burden of proof will be served on or before **April 13, 2018**.

Rebuttal expert reports propounded by the party with the burden of proof will be served on or before **April 23, 2018**.

All other deadlines will be extended consistent with the adjourned deadlines for fact and expert discovery.

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- (4) A list of all prior settlement discussions, including the date, the parties involved, whether any third-party (e.g., Magistrate Judge, mediator, etc.) was involved, and the approximate duration of such discussions, if any**

There have been three settlement discussions between Aurelius and Windstream principals: one in November 2017, and two in February 2018. There were no third parties involved and the duration of the discussions was approximately 90 minutes in total. The parties may recommence settlement discussions in the future.

- (5) A statement of whether or how the Court could facilitate settlement of the case (for example, through a(nother) settlement conference before the designated [] Magistrate Judge or as part of the Court's Mediation Program)**

The parties do not believe this would be fruitful.

- (6) A statement of the anticipated length of trial and whether the case is to be tried to a jury**

This case is to be tried before the Court. The parties estimate that the length of trial will be approximately five days.

- (7) A statement of whether the parties anticipate filing motions for summary judgment**

The parties are aware of Your Honor's Individual Rule 3(C)(i), which states that the Court ordinarily does not have summary judgment practice in a non-jury case "absent good cause." At this time, Aurelius and U.S. Bank do not anticipate filing motions for summary judgment. Windstream is continuing to consider whether good cause exists for moving for summary judgment.

- (8) Any other issue that the parties would like to address at the pretrial conference or any information that the parties believe may assist the Court in advancing the case to settlement or trial.**

As between U.S. Bank National Association ("Trustee") and Services, there remain outstanding issues (regarding discovery requested from Windstream by U.S. Bank) from the period of expedited discovery last fall, which have been the subject of ongoing meet-and-confer discussions between the parties over the past two months. Some of those issues continue to be the subject of meet-and-confer discussions this week, and it is possible that if a satisfactory resolution is not achieved in the next few days that the Trustee may need to bring those issues to the Court's attention prior to the March 8, 2018 status conference.

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Respectfully submitted,

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